

Federal Retirement Thrift Investment Board

§ 1651.2

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AUTHORITY: 5 U.S.C. 8424(d), 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

SOURCE: 62 FR 32429, June 13, 1997, unless otherwise noted.

§ 1651.1 Definitions.

(a) Definitions generally applicable to the Thrift Savings Plan are set forth at 5 CFR 1690.1.

(b) As used in this subpart:

Death benefit means the portion of a deceased participant's account that is payable under FERSA's order of precedence.

Domicile means the participant's place of residence for purposes of state income tax liability.

Order of precedence means the priority of entitlement to a TSP death benefit specified in 5 U.S.C. 8424(d).

TIN means a taxpayer identification number. A TIN may be a Social Security number (SSN), an employer identification number (EIN), or an individual taxpayer identification number (ITIN).

[68 FR 35509, June 13, 2003]

§ 1651.2 Entitlement to funds in a deceased participant's account.

(a) *Death benefits.* Except as provided in paragraph (b) of this section, the account balance of a deceased participant will be paid as a death benefit to the individual or individuals surviving the participant, in the following order of precedence:

(1) To the beneficiary or beneficiaries designated by the participant on the TSP designation of beneficiary form that has been properly completed and filed in accordance with § 1651.3;

(2) If there is no designated beneficiary, to the spouse of the participant in accordance with § 1651.5;

(3) If there are no beneficiaries or persons as described in paragraphs (a)(1) and (a)(2) of this section, to the child or children of the participant and descendants of deceased children by representation in accordance with § 1651.6;

(4) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(3) of this section, to

the parents of the participant in equal shares or entirely to the surviving parent in accordance with § 1651.7;

(5) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(4) of this section, to the duly appointed executor or administrator of the estate of the participant in accordance with § 1651.8; or

(6) If there are no beneficiaries or persons as described in paragraphs (a)(1) through (a)(5) of this section, to the next of kin of the participant who is or are entitled under the laws of the state of the participant's domicile on the date of the participant's death in accordance with § 1651.9.

(b) *TSP withdrawals.* If the TSP processes a notice that a participant has died, it will cancel any pending request by the participant to withdraw his or her account. The TSP will also cancel an annuity purchase made on or after the participant's date of death but before annuity payments have begun, and the annuity vendor will return the funds to the TSP. The funds designated by the participant for the withdrawal will be paid as a death benefit in accordance with paragraph (a) of this section, unless the participant elected to withdraw his or her account in the form of an annuity, in which case the funds designated for the purchase of the annuity will be paid as described below:

(1) If the participant requested a single life annuity with no cash refund or 10-year certain feature, the TSP will pay the funds as a death benefit in accordance with paragraph (a) of this section.

(2) If the participant requested a single life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds:

(i) As a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of a withdrawal request, Form TSP-70 or Form TSP-U-70; or

(ii) As a death benefit in accordance with paragraph (a) of this section if no beneficiary designated on the withdrawal request survives the participant.

(3) If the participant requested a joint life annuity without additional features, the TSP will pay the funds:

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(i) As a death benefit to the joint life annuitant if he or she survives the participant; or

(ii) As a death benefit in accordance with paragraph (a) of this section if the joint life annuitant does not survive the participant.

(4) If the participant requested a joint life annuity with a cash refund or 10-year certain feature, the TSP will pay the funds:

(i) As a death benefit to the joint life annuitant if he or she survives the participant;

(ii) As a death benefit to the beneficiary or beneficiaries designated by the participant on the annuity portion of Form TSP-70 or Form TSP-U-70, if the joint life annuitant does not survive the participant; or

(iii) As a death benefit in accordance with paragraph (a) of this section if neither the joint life annuitant nor any designated beneficiary survives the participant.

(5) If a participant dies after an annuity has been purchased, the annuity vendor will make or stop the payments in accordance with the annuity method selected.

(c) *TSP loans.* If the TSP processes a notice that a participant has died, any pending loan disbursement will be cancelled and the funds designated for the loan will be distributed as a death benefit in accordance with paragraph (a) of this section. If a TSP loan has been disbursed, but the check has not been negotiated (or an electronic funds transfer (EFT) has been returned), the loan proceeds will be used to pay off the loan. If the loan check has been negotiated (or the EFT has been processed), the funds cannot be returned to the TSP and the TSP will declare the loan balance as a taxable distribution in accordance with 5 CFR 1655.15.

(d) *Investment of a TSP account upon notice of death.* If a participant dies with any portion of his or her TSP account in an investment fund other than the G Fund, the TSP will transfer the entire account into the G Fund after it processes a notice that the participant has died, or a death code indicating the participant's death from the participant's agency or service. The account will accrue earnings at the G Fund rate

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in accordance with 5 CFR part 1645 until it is paid under this part.

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§ 1651.3 Designation of beneficiary.

(a) *Filing requirements.* In order to designate a beneficiary of a TSP account, the participant must complete and file Form TSP-3, Designation of Beneficiary, unless Form TSP-11-B is used for this purpose. All Forms TSP-3 and TSP-11-B signed on or after January 1, 1995, must be received by the TSP record keeper on or before the participant's date of death. If the Form TSP-3 was received and accepted by the participant's employing agency before January 1, 1995, the TSP record keeper will process it and determine its validity when it is received from the employing agency. A valid Form TSP-3 remains in effect until it is properly canceled or changed as described in § 1651.4.

(b) *Eligible beneficiaries.* Any individual, firm, corporation, or legal entity, including the U.S. Government, may be designated as a beneficiary. Any number of beneficiaries can be named to share the death benefit. A beneficiary may be designated without the knowledge or consent of the beneficiary or the knowledge or consent of the participant's spouse.

(c) *Validity requirements.* In order to be valid, a Form TSP-3 must be signed by the participant in the presence of two witnesses, or the participant must acknowledge his or her signature on the Form TSP-3 in the presence of two witnesses. A witness must be age 21 or older, and a witness designated as a beneficiary on the Form TSP-3 will not be entitled to receive a death benefit payment. If a witness is the only named beneficiary, the Form TSP-3 is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries *pro rata*.

(d) *Will.* A will, or any document other than Form TSP-3 or Form TSP-11-B, may not be used to designate a beneficiary(ies) of a TSP account.

§ 1651.4 Change or cancellation of a designation of beneficiary.

(a) *Change.* In order to change a designation of beneficiary, the participant